

**Minutes
Minnetonka City Council
Monday, April 17, 2023**

1. Call to Order

Mayor Brad Wiersum called the meeting to order at 6:31 p.m.

2. Pledge of Allegiance

All joined in the Pledge of Allegiance.

3. Roll Call

Council Members Kimberly Wilburn, Deb Calvert, Bradley Schaeppi, Kissy Coakley, Brian Kirk, Rebecca Schack and Brad Wiersum were present.

4. Approval of Agenda

Kirk moved, Calvert seconded a motion to accept the agenda as amended removing Item 10.D. All voted "yes." Motion carried.

5. Approval of Minutes:

A. February 27, 2023 regular meeting minutes

Calvert moved, Kirk seconded a motion to accept the minutes. All voted "yes." Motion carried.

B. March 6, 2023 regular meeting minutes

Calvert moved, Kirk seconded a motion to accept the minutes. All voted "yes." Motion carried.

6. Special Matters:

A. Recognition of Minnetonka Academy participants

Wiersum recognized participants from the recent Minnetonka Academy and thanked these residents for their civic engagement. A round of applause was offered by all in attendance.

B. Earth Day proclamation

Schack read a proclamation in full for the record declaring Saturday, April 22, 2023 to be Earth Day in the City of Minnetonka.

C. Arbor Day proclamation

Schaeppi read a proclamation in full for the record declaring Friday, April 28, 2023 to be Arbor Day and the month of May to be Arbor Month in the City of Minnetonka.

7. Reports from City Manager & Council Members

City Manager Mike Funk reported on upcoming city events and council meetings.

Calvert hoped everyone had a good holiday season. She wished everyone a happy and meaningful Ramadan.

Calvert explained she attended the National League of Cities Congressional Conference where she spent time addressing funding opportunities for sustainability matters.

Calvert reported there has been 49 mass shootings in the United States since March 17. She stated a lot of children have died just this week because of gun violence and she hoped this country could find a way to address this concern.

Kirk commented on the fire department's annual banquet, noting Jim Flanders was recognized at this event along with fire fighters that saved a life.

Kirk reported he would not be seeking reelection next year. He explained this would be his last year serving on the Minnetonka City Council. He indicated he has truly enjoyed serving the community and noted he would continue to work hard over the next eight months.

Schaeppi thanked the public works department for their great work this past winter.

Schaeppi explained he went to Canada briefly with his family and while he was there, he noticed how the streets were designed differently and he was impressed to see something different. He commented further on how he appreciated the land acknowledgement that he saw occurring while in Canada. He encouraged the city to consider land acknowledgement in Minnetonka.

Schaeppi stated the city has passionate people who love the parks and noted these spaces were currently being reimaged by staff and the public. He hoped

that the city could close the book on past disagreements and move forward in a positive direction where collaboration occurs between the city and residents.

Schaeppi encouraged residents to volunteer in the community on Earth Day and Arbor Day.

Wiersum recognized public safety personnel and offered his condolences to Pope County and Glenwood, Minnesota after losing County Deputy Joshua Owen. He offered his condolences to the cities of Chetak and Cameron, Wisconsin as well after losing Officers Emily Breidenbach and Hunter Scheel. He thanked the city's police and firefighters for the service they provide to the community.

Wiersum explained through the US Conference of Mayors he signed onto two letters which urged congress to ban assault weapons, large capacity magazines and to strengthen background checks. He noted the other letter addressed the rise in antisemitism.

Wiersum reported the City of Minnetonka is part of the Municipal Legislative Commission which was a group of cities that meets quarterly and annually with the governor. He commented further on the issues that were discussed with the governor which included housing concerns, public safety needs, the need for infrastructure and transportation investments, adult marijuana use enforcement and paid family leave.

Wiersum stated Item 14.A, which was a concept plan review, would be discussed by the council tonight, but public comment would not be taken at this meeting.

8. Citizens Wishing to Discuss Matters not on the Agenda

Luke Shaner, 5123 Willow Lane, stated in pursuing a permit from the city an issue on his property has arisen. He explained his property was adjacent to a stormwater pond and in the development of his property he also learned that he was in a floodplain. Through weeks of dealing with the planning office his project was being subject to changes. He explained the greater issue was that in pursuing information regarding these changes, he learned there was no public record that communicated the floodplain in his area. He reported the DNR and FEMA maps were reviewed for Purgatory Creek and the issue that was impacting his property was not on any of these maps. He explained he was told municipalities are allowed to control their own waterways. He indicated his issue was in trying to find this information, he found no public information was made available to residents. He expressed concern with the lack of information and availability of public record from the City of Minnetonka. He stated he was quite surprised upon learning his property was within a floodplain, after it was purchased. He commented the catch basin adjacent to his property was quite small. He discussed how after trying to reach out to the engineering firm that

completed the study, they have not communicated with him, which was increasingly frustrating.

Wiersum thanked Mr. Shaner for bringing this concern to the city council. He stated he was not an expert on this topic, but by bringing this topic forward, city staff can investigate this matter further. He understood communication with the public was key, especially when it came to updated FEMA maps.

9. Bids and Purchases:

A. Bids for the Red Circle Drive Turn Lane Improvements Project

Public Works Director Will Manchester gave the staff report.

Schack moved, Kirk seconded a motion to award the contract and authorize the city engineer to expend the allocated funds for the project costs without further city council approval provided the costs do not exceed the project budget. All voted "yes." Motion carried.

B. Bids for the Smetana Road Trail Project

Public Works Director Will Manchester gave the staff report.

Kirk moved, Calvert seconded a motion to award the contract and authorize the city engineer to expend the allocated funds for the project costs without further city council approval provided the costs do not exceed the project budget. All voted "yes." Motion carried.

C. Bids for the 2023 Mill and Overly Project

Public Works Director Will Manchester gave the staff report.

Wilburn moved, Kirk seconded a motion to award the contract and authorize the city engineer to expend the allocated funds for the project costs without further city council approval provided the costs do not exceed the project budget. All voted "yes." Motion carried.

10. Consent Agenda – Items Requiring a Majority Vote:

A. Strategic Profile quarter one report

Schack moved, Calvert seconded a motion to accept the report. All voted "yes." Motion carried.

B. Conditional use permit for Dave's Hot Chicken located at 1805 Plymouth Road

Schack moved, Calvert seconded a motion to adopt Resolution 2023-019. All voted "yes." Motion carried.

C. Minor amendment to the existing master development plan and a conditional use permit for Ovation Orthodontics at 10999 Red Circle Drive

Schack moved, Calvert seconded a motion to adopt Resolution 2023-020. All voted "yes." Motion carried.

D. Resolution for the Skatepark Feasibility Study

This item was removed from the agenda.

E. Resolution regarding national opioid settlements

Schack moved, Calvert seconded a motion to adopt Resolution 2023-021. All voted "yes." Motion carried.

F. Resolution authorizing execution of the grant agreement between Metropolitan Council and the City of Minnetonka for the 2020 Inflow & Infiltration (I/I) Grant Program

Schack moved, Calvert seconded a motion to adopt Resolution 2023-022. All voted "yes." Motion carried.

G. City Manager 2023 compensation

Schack moved, Calvert seconded a motion to approve the compensation. All voted "yes." Motion carried.

H. Minnetonka School District resource officer agreement

Schack moved, Calvert seconded a motion to approve the agreement. All voted "yes." Motion carried.

I. Resolution for the Groveland Storm Sewer Improvements Project

Schack moved, Calvert seconded a motion to adopt Resolution 2023-023. All voted "yes." Motion carried.

11. Consent Agenda – Items requiring Five Votes:**A. Items concerning Mega Pickle and Pong at 17585 Highway 7**

Calvert moved, Kirk seconded a motion to adopt Resolution 2023-024 and Resolution 2023-025. All voted “yes.” Motion carried.

B. A conditional use permit, with location variance, for Hoover Perio at 10000 Minnetonka Boulevard

Calvert moved, Kirk seconded a motion to adopt Resolution 2023-026. All voted “yes.” Motion carried.

C. Resolutions concerning DUNIBAR COUNT at 17809 Ridgewood Road

Calvert moved, Kirk seconded a motion to adopt Resolution 2023-027 and Resolution 2023-028. All voted “yes.” Motion carried.

12. Introduction of Ordinances:**A. Ordinance adopting and amending the 2020 Minnesota state fire code**

City Attorney Corrine Heine gave the staff report.

Calvert moved, Coakley seconded a motion to introduce the ordinance. All voted “yes.” Motion carried.

B. Ordinance establishing mayor and council salaries

City Attorney Corrine Heine gave the staff report.

Schaeppi commented he would not be running again for city council, which meant he would not benefit by this ordinance. He understood there was a wide range of opinions on what Minnetonka city Councilmembers should be paid. He commented on the amount of time spent on serving as a councilmember. He believed there needed to be a pay increase in order to incentivize more people to run for city council. He discussed how the compensation helped in covering the time spent studying, preparing and responding to public issues.

Kirk stated he appreciated the fact this item would be reviewed biannually. He indicated the jump may seem high, but noted the council has not received a pay increase in six or seven years.

Wiersum explained he feared what the public would think when and if this ordinance is passed. He reiterated that the council has not had a pay increase

since 2016. He described how staff reviewed the council pay for like cities before bringing this ordinance forward. He appreciated the fact the council would be reviewing its pay every two years going forward. He was of the opinion not a single councilmember was doing this job for the pay, but he also understood each councilmember worked hard for the community and the pay increase was appropriate.

Calvert moved, Schack seconded a motion to introduce the ordinance. All voted "yes." Motion carried.

C. Items concerning Marsh Run II redevelopment, a multi-family residential development by Doran, at 11816 Wayzata Boulevard

City Planner Loren Gordon and Community Development Director Julie Wischnack gave the staff report.

Wilburn commented on the concerns she had regarding Doran being involved with contractors that participate in wage theft activities. She questioned how the city could hold the developer accountable to ensure this type of activity was not occurring going forward. Wischnack stated this issue was brought forward and she recommended the developer address this concern. She reported the city had a contract that requires developers to follow state wage laws and TIF payments would be withheld if there was a violation of these laws.

Wilburn asked if the city could create a list of contractors that were not allowed to work in the city, if they have been convicted of a wage theft crime. City Attorney Corrine Heine advised she was not aware of any state statute that would allow the city to deny a zoning, rezoning, or conditional use permit application based on something like this. Wischnack commented on how the council would have options when considering the TIF financing for this project.

Schack commented as this project moves through the planning commission and EDC, she wanted to ensure parking concerns were addressed.

Coakley stated in the past the council discussed concerns surrounding Doran Development. She understood there were rules and contracts in place, but she asked how the city could ensure wage theft and other activities were not happening in Minnetonka. She supported the city looking into the history of developers before allowing them to operate in the community.

Calvert recommended the planning commission consider the footprint of the building, given how large it was and how close it was to the wetlands. She discussed the trees that would be lost near the wetland and commented on how this would impact the neighbors. She recommended the parking issues be taken care of within this development. In general, she stated she liked the fact that the

building was in the same general footprint. She thanked her fellow councilmembers for bringing the Doran concerns forward for further discussion.

Kirk stated he had the same concerns regarding the labor laws. He noted he had concerns regarding the placement of the building, the grading plan and tree loss. He questioned if the city would be able to tie affordability levels to the land use approvals. Wischnack explained there were stipulations that go along with the affordable housing covenants. She noted this project was different from the Dominion development and staff would be bringing further information on the affordability aspect at a future meeting.

Wiersum reported the council met with a representative from the building trade where he made some points regarding wage theft. He supported the council being careful considering this information. He understood there have been a lot of allegations and encouraged the council to be objective and fact based. He believed the council should challenge and ask questions of the developer. He indicated the introduction of this ordinance was not an approval. He stated this was a very large building with a lot of units. He explained he appreciated what Doran had done with the Birke and how their affordable units were working to meet the needs of those with disabilities. He stated he looked forward to reviewing this project further after receiving feedback from the planning commission.

Calvert moved, Schack seconded a motion to introduce the ordinance and refer to the planning commission. All voted "yes."

Wiersum recessed the city council meeting.

Wiersum reconvened the city council meeting.

13. Public Hearings:

A. On-sale intoxicating and Sunday on-sale intoxicating liquor licenses for MN Opus Operating VII LLC, dba Minneapolis Marriott Southwest, located at 5801 Opus Parkway

Community Development Director Julie Wischnack gave the staff report.

Wiersum continued the public hearing from February 13, 2023.

There being no comments from the public, Wiersum closed the public hearing.

Calvert moved, Coakley seconded a motion to continue the public hearing from February 13, 2023 and grant the licenses. All voted "yes." Motion carried.

B. Resolution vacating a portion of a drainage and utility easement on 5024 and 5034 Sparrow Road

Public Works Director Will Manchester gave the staff report.

Wiersum opened the public hearing.

There being no comments from the public, Wiersum closed the public hearing.

Kirk moved, Schack seconded a motion to hold the public hearing and adopt Resolution 2023-029. All voted "yes." Motion carried.

14. Other Business:

A. Concept plan redevelopment of the properties at 2511 and 2516 Plymouth Road

City Planner Loren Gordon gave the staff report.

Schack stated she appreciated the comments that were made regarding access. She questioned if staff had a preference of one access point versus two. Gordon explained this was always a consideration and commented on how the topography of a development can drive access points. Public Works Director Will Manchester reported the council is reluctant to add access points onto Plymouth Road.

Wiersum stated he would prefer another access point, but he understood this may not be granted by the county.

Schaeppi asked what feedback has been received regarding woodland preservation. Gordon commented on the quality of the trees on the site and discussed how the ordinance would work to preserve the trees on the property.

Calvert indicated she watched the planning commission meeting and she thought the county had already hinted they wanted one access point. Gordon reported the development team has met with the county and recommended the developer respond to this question.

Calvert stated it was her understanding 25% of the woodland preservation area can be removed. Gordon reported this was the case.

Curt Fretham, Lake West Development, thanked the council and staff for their time and thanked the council for considering his request. He discussed his project in further detail with the council and commented on how he was working to balance the project by preserving trees and offering walking paths. He noted he met with the county and explained they would like one access point, but

recognized this was two parcels. He reviewed the two alternate options for the development stating there were disadvantages to both and there would be additional tree loss. He believed the looped plan was the most reasonable option for this project.

Schack thanked Curt and Joann for their efforts on this project. She appreciated how this plan better honored the property. She understood there were tradeoffs and noted variances may be needed for this project. While she appreciated the design with two access points, she also wanted the project to be safe for the neighborhood. She noted she was not a fan of the two phased concept. She stated it would be good for the council to understand how many ash trees were on the property.

Kirk explained the city would have to be careful with how this property develops with respect to the tree ordinance. He supported the city offering leniency when it comes to the tree ordinance and recommended the ash trees be counted. He understood this property had tremendous value. While he hated to see properties like this disappear, he understood the property owner had the right to develop the property. He was of the opinion all three options were viable and recommended the project not be phased.

Wiersum agreed all three plans were viable. He stated he was leaning towards protecting the woodland preservation area. He noted he would be open to something reasonable, if the woodland preservation requirements could not be met. He explained he appreciated the size of the lots within the project.

Coakley commented she liked the two access concept and noted she did not support the two phase concept.

Calvert thanked the applicant for the progress that has been made since last year. She explained the homes that would be built within this development would be \$2 million. She appreciated the size of the lots for the proposed 12 homes, but noted she would support the development having 11 lots if more trees could be saved. She indicated she was inclined to be strict on the woodland preservation area, while doing what makes sense for the site. She reported her focus would be to follow the spirit of the code. She appreciated the fact the center of the property would be protected. She commented she did not support the two phased approach, but would be open to looking at the tree count and taking into account the ash trees. She recommended the development have two access points for safety purposes. She stated at this time she was leaning towards option 1.

Wilburn noted she was not a fan of the two phased approach. She indicated she did support the development having two access points.

Wiersum stated he was pleased the development had come this far over the past year. He appreciated the fact the development was R-1 homes. He explained he would rank the options with green on the left, yellow in the middle and red on the right. He noted he did not support the two phased approach. He reported the cul-de-sac concept may be a challenge on this site due to the topography. He was of the opinion the two access concept was a better design. He explained the council did not have enough information to make a decision on the project at this time. He stated council needed to better understand the tree inventory and number of ash trees on this property.

15. Appointments and Reappointments: None.

16. Adjournment

Calvert moved, Kirk seconded a motion to adjourn the meeting at 9:20 pm. All voted "yes." Motion carried.

Respectfully submitted,



Becky Koosman
City Clerk